

REMARKS/ARGUMENTS

The present amendment is submitted in an earnest effort to advance this case to issue without delay.

1. Applicant appreciates the acceptance of the drawing sheet filed 2 February 2005.

2. The change suggested by the Examiner in the "Claim Objections" portion of the detailed action has been made.

3. In addition, claim 1 has been amended to emphasize that the armrest is detachable and removable from the hand and is separable from the axis to underscore the differences between the claimed invention and the newly cited patent to HUBNER et al.

4. Applicant respectfully requests reconsideration of the Finality of the Office Action here. The Examiner has cited the HUBNER et al Patent 6,375,265 as a reference to meet limitations of applicant's claims which is of no greater relevance than the reference DAVIS et al, which was withdrawn and over which applicant's arguments were considered to be persuasive. Since the reference is no more significant than was DAVIS et al, is not in fact anticipatory of claims 1-11 without the present amendment, and could therefore not have been made necessary by applicant's amendment previously, it is considered to be improper to make this Office Action Final and withdrawal of the Finality of the Office

Action and entry of this amendment as a matter of right is requested.

5. The amendment made to claim 1 and which is included by reference in claims 2-11 as well, is intended to underscore the differences previously argued over the prior art. In the prior art (including HUBNER et al) the armrest is not so released as to be detachable, or removable from the hinge and is certainly not separable from the axis (3) on the support or the armrest and hinge.

In FIGS. 3 and 4, where the detent of HUBNER et al is released, the axis or journal (3) remains and the armrest is neither removable nor separable therefrom. Thus while claim 1 has been amended to emphasize the previously recited distinction over the prior art, claim 1 in its prior form also distinguished in terms from HUBNER et al and thus HUBNER et al could not have been cited as anticipatory of claim 1 or any other claim in the case.

The rejection of claims 1-11 as anticipated by HUBNER et al is therefore improper.

6. While there has been no rejection on obviousness grounds under 35 USC 103, applicant must note in addition that no such rejection would lie if only because there is no teaching in HUBNER et al to separate the armrest from the pivot (3) at any stage. While there is a detent which releases in HUBNER et al, the pivotal relationship of the armrest with respect to the journal (3)

in HUBNER et al remains at all times and any modification of HUBNER to separate the armrest from that journal would be anathema to the teaching in HUBNER et al. No secondary art teaching the separation of the armrest from its hinge structure and applicable to HUBNER et al has been cited.

7. Applicant has reviewed the rejection and advised the undersigned as follows:

"We have studied the document carefully. It is correct that the armrest described therein may be provided with an overload protection. However, this protection is realized in a way different from the present invention and fulfills the function to engage the armrest at a substantially horizontal portion of use.

According to HUBNER et al, the armrest comprises a locking device 4 (cf Figs. 1 through 4) including a setting piston 7 capable of an approximately radial movement to a bearing journal 3 and under the effect of an engagement spring 8, with a transverse aperture 7a and a locking slide 9 capable of displacement therein.

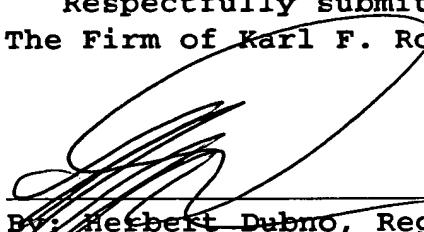
The armrest of HUBNER et al is not comparable to that of the present invention that permits to completely separate or detach the armrest from its support whereas Figs. 1 through 4 OF HUBNER et al depict an armrest that can catch a recess by means of a wheel 25 which may be forced back on the circular path 12 up or down.

The invention teaches to separate the armrest entirely from the support and thus creates a structure that precludes the

armrest from being damaged even when the armrest is treated in rough manner. Unlike the present invention HUBNER et al relates to an armrest that can be positioned at different inclinations but can be held only at that position that corresponds to recess 11 in circular path 12."

Consequently claims 1-11 are deemed to be allowable and an early Notice to that effect is earnestly solicited.

Respectfully submitted,
The Firm of Karl F. Ross P.C.


By: Herbert Dubno, Reg. No. 19,752
Attorney for Applicant

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5676 Riverdale Avenue Box 900
Bronx, NY 10471-0900
Cust. No.: 535
Tel: (718) 884-6600
Fax: (718) 601-1099